

## **CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**

### **ARTICLE 23 – INMATE DISCIPLINE**

*Effective January 19, 1990*

*Updated January 30, 2015*

**[Sections 52080.1 through 52080.5.4.2 are unchanged]**

#### **52080.5.5      Disposition Options**

Upon completion of the fact-finding portion of the hearing, and based upon information presented in the disciplinary report and in the hearing, the following actions may be taken:

- The inmate may be found not guilty and the charges dismissed.
- The inmate may be found guilty of an administrative level violation rather than a serious level violation and the disciplinary report reclassified accordingly, with the inmate assessed an authorized administrative level disposition as provided in CCR 3314.
- The inmate may be found guilty as charged and assessed an appropriate serious level disposition.
- The inmate may be found guilty of a lesser but included offense, the offense group designation properly modified, and assessed the penalty disposition for that offense group.

**[Sections 52080.5.6 through 52080.6.3 are unchanged]**

#### **52080.7          Housing Pending Disciplinary Proceedings**

Depending upon the nature and the circumstances of an inmate's violation of rules, and whether the violation is or is not a serious violation, the inmate may be retained in regularly assigned housing, work and program assignments, be placed in segregated housing pending disciplinary proceedings, or be placed in CTQ.

If the inmate is placed in segregated housing pending disciplinary proceedings, the official making the housing determination shall see that the cause for the action is properly reported, as follows:

- The inmate's misconduct has been or will be reported as a serious rule violation on a CDC Form 115. The report shall serve as notice to all concerned, including the inmate, of the cause for action and pending disciplinary proceedings. The inmate shall be afforded the procedural safeguards of disciplinary proceedings, and a separate CDC Form 114-D, Administrative Segregation Unit Placement Notice, need not be prepared.
- The inmate is believed to have committed a serious rule violation, but sufficient information is not yet available to support a specific charge and the investigation is continuing. The cause for action shall be reported on a CDC Form 114-D. The order will serve as notice to all concerned, including the inmate, of the cause for action.

**[Sections 52080.8 through 52080.12 are unchanged]**

### **52080.13 Conduct Reportable to the Releasing Authority**

Rules of the BPH and those of the NAEA require that specific acts of inmate conduct be reported to the appropriate releasing authority when the inmate has an established or anticipated release date on an indeterminate term or period of confinement.

At the discretion of the appropriate releasing authority, a hearing for reconsideration of release may be held in conjunction with a disciplinary hearing for conduct that is also reportable to the releasing authority.

Releasing authority staff may sit in the fact finding and disposition phase of a disciplinary hearing held in conjunction with a hearing by the releasing authority for release reconsideration, however, they shall not act as fact finders or decision makers in the Department's disposition of disciplinary charges against an inmate. The releasing authority staff may participate in the fact finding phase of the disciplinary hearing as deemed necessary to bring out information that will aid them in determining an appropriate action relative to the inmate's scheduled or anticipated release.

The scheduling of a combined departmental disciplinary hearing and a releasing authority hearing does not stay the time limits for a disciplinary hearing in which work credit may be denied on a determinate term of imprisonment.

### **52080.14 Appeal of Disciplinary Actions**

An inmate may appeal any disciplinary decision or disposition, including the denial of credits, or the process itself by filling out CDCR Form 602, Inmate/Parolee Appeal, and following the procedures outlined in DOM 54100.

**[Sections 52080.15 through 52080.19 are unchanged]**

### **52080.20 DD**

DD is a temporary housing status which confines inmates so assigned to designated rooms or cells for prescribed periods of time as punishment for serious acts of misbehavior. An inmate shall not be assigned to DD except on the order of a disciplinary committee or a senior disciplinary hearing officer.

- DD may be served in a housing unit or section of a housing unit specifically designed for that purpose or in any room or cell which provides the necessary security, control, and restriction of the inmate's actions. When DD is ordered in a housing unit other than a designated DD unit, the conditions of detention shall be the same as prescribed for DD units.
- DD may be ordered as a continuous period of confinement or as intermittent confinement on holidays, weekends or days off from assigned work and program activities. When ordered as intermittent confinement, confinement shall not exceed ten days during a 35-day period. The chief disciplinary officer shall review the treatment of an inmate confined in DD and consider a modification of sentence when evidence indicates the inmate is ready to conform to the rules.

Time served in DD shall be computed on the basis of full days in detention. The day of placement and the day of release shall not count as a day of time served. Intermittent detention

may extend from the end of the work day before the first full day of detention to the beginning of the work day following the last full day of detention.

- Continuous DD of an inmate shall not exceed ten full days without approval of the Director, Division of Adult Institutions.
  - If an extension beyond ten days is approved, the Warden shall note that fact in the disposition section of the rule violation report stating the reasons for the extension and the additional amount of time the inmate shall be confined, and shall sign and date the notation.

A request for the director's approval to retain an inmate in DD for longer than 30 days shall be accompanied by a current psychological evaluation of the inmate's mental health. Such evaluation shall include a personal interview with the inmate by the mental health examiner.

**[Section 52080.21 is unchanged]**

#### **52080.21.1 Detention Housing**

Where adequate and secure facilities are available and the number of inmates assigned to designated DD units permit, inmates so assigned will be housed in single occupancy quarters. When the use of multiple occupancy housing is necessary, the number of inmates so assigned will not exceed the capacity of beds for which such quarters are equipped except as a temporary emergency measure. The Office of the Director, Division of Adult Institutions, or the departmental duty officer shall be notified when such an emergency exists for longer than 24 hours. Institution and department efforts shall be coordinated as necessary to resolve any overcrowding situation as quickly as possible.

**[Sections 52080.21.2 through 52080.22 are unchanged]**

#### **52080.22.1 Staff Visitation**

Inmates assigned to DD units shall be visited daily by the supervisor in charge of the unit and by an institution mental health provider, physician, Licensed Vocational Nurse, or Psychiatric Technician. An inmate's request to be visited by other staff shall be promptly referred to the staff member. A timely response shall be given to such requests whenever reasonably possible.

**[Sections 52080.22.2 through 52080.22.3 are unchanged]**

#### **52080.22.4 Management Cell**

*Revised January 30, 2015*

Management Cell Status (MCS) placement is to urgently address an inmate's dangerous or destructive behavior that may imminently cause cell damage or injury to a person. MCS may only be authorized when the inmate has used materials of any kind to cover up windows, damage lighting, windows and/or doors. The authority to place an inmate on MCS shall not be designated below the level of Lieutenant. The Administrative Segregation Unit (ASU) Lieutenant, or watch commander, shall initiate contact with the respective Associate

Warden/Administrative Officer-of-the-Day (AOD) and make notification of MCS placement. The Lieutenant will document the cause for MCS on a CDC 128-B, General Chrono and document MCS placement on the CDC 114-A, Inmate Segregation Record. The respective Associate Warden, or designee at a level no less than Captain, shall review MCS daily, making a notation of the review on the CDC 114-A. The reviewing manager, after consulting with the licensed mental health practitioner about the inmate's progress on an established behavior plan, will make a determination on a daily basis to either, grant additional items of property within the cell, or remove the inmate from MCS based on the inmate's current behavior and compliance with rules. These decisions will be based solely on the inmate's behavior while on MCS. On weekends and holidays, the AOD shall personally review MCS placement and complete the daily notation on the CDC 114-A. The respective Captain will have functional responsibility to ensure compliance with the MCS review procedures. The Warden, or designee at a level no less than Captain, or AOD, may authorize the release of an inmate from the MCS by written order, and record on the inmate's CDC 114-A.

In the event an inmate's disruptive behavior continues and requires retention beyond 72 hours, authorization of the Chief Deputy Warden or Warden is required. In addition, a licensed mental health practitioner shall consult with the Chief Deputy Warden or Warden regarding the inmate's behavior plan and barriers to progress, as well as any significant risk of exacerbation of mental illness if MCS is maintained. The Lieutenant will document approval of the extension by the authorizing officer on a CDC 128-B and include a description of the inmate's disciplinary history in ASU/segregated housing unit (SHU)/psychiatric services unit (PSU), with specific dates and rule violations, counseling, disruptive behavior, etc. A copy will be placed with the inmate's CDC 114-A, distributed to the respective Associate Warden, Captain, and Lieutenant, and documented in the daily transactions on the CDC 114-A. The respective Captain, or designee, will provide daily updates during executive staff meetings.

To extend an inmate's MCS beyond six calendar days, approval from the respective Associate Director must be obtained. The Chief of Mental Health must also review the behavior plan for adequacy and a revised behavior plan shall be developed if the current plan is determined to be inadequate. The Warden or designee will contact the respective Associate Director's office to schedule a conference call. A memorandum detailing the history leading to MCS and the need to extend beyond six calendar days will be forwarded to the respective Associate Director for approval or disapproval. Once a decision has been rendered, the decision will be noted on the inmate's CDC 114-A and the memorandum detailing the decision will be placed with the CDC 114-A.

To extend an inmate's MCS beyond ten calendar days, and every 3 days thereafter, approval from the Division of Adult Institutions (DAI), Deputy Director, Field Operations must be obtained. The Chief of Mental Health must also review the behavior plan for adequacy, and a revised behavior plan shall be developed if the current plan is determined to be inadequate. The Warden or designee will contact their respective Associate Director's office to schedule a conference call with the Deputy Director. A memorandum detailing the history leading to MCS and the need to extend beyond ten calendar days will be forwarded to the Associate Director prior to the conference call with the Deputy Director. The approval or disapproval will be documented on the memorandum and a copy placed in the folder containing the CDC 114-A. Prior to placing an inmate on MCS and upon removal, the inmate shall be examined by the on-duty licensed mental health provider in a clinic or Triage and Treatment Area setting. Each

examination shall be documented on a CDCR Form 7219, Medical Report of Injury or Unusual Occurrence, and retained with the inmate's CDC 114-A.

No Enhanced Outpatient Program (EOP) inmate will be placed on MCS. If an EOP inmate is engaging in behavior that requires and justifies placement on MCS, that inmate will be evaluated by a psychiatrist and if necessary, transferred to a crisis bed or a higher level of care. Clinical interventions such as individualized positive behavior plans may be implemented without imposition of MCS placement.

Inmates placed on MCS shall receive an emergency mental health referral. A mental health practitioner (psychiatrist, psychologist, or social worker) shall conduct an evaluation to determine if crisis issues exist and if a referral to a higher level of care is needed. At each consideration of extension, the inmate shall be considered for referral to a higher level of care, as well as if there is a significant risk of exacerbation of mental illness if MCS is maintained.

Following the initial mental health clinical contact, the licensed mental health practitioner shall consult with the Lieutenant and discuss how the inmate's mental health conditions affect the inmate's behavior. If placement occurs after a controlled use of force, the mental health practitioner shall communicate the results of the mental health assessment and interventions. The licensed mental health practitioner shall immediately work in conjunction with custody staff to develop an individualized behavior plan designed to provide positive reinforcement (for example, restoration of privileges) in response to specific appropriate behaviors. The behavior plan shall not be used to extend placement on MCS. Individual behavior plans may be continued after removal from MCS.

The licensed mental health practitioner shall make a daily clinical contact with the inmate until removal from MCS to ensure continued psychiatric stability and evaluate for the emergence of crisis issues and/or need for higher level of care. Individualized strategies for coping with placement on MCS shall be reviewed with the inmate. The licensed mental health practitioner shall also monitor the efficacy of the behavior plan and recommend modifications as needed. All mental health contacts shall occur in confidential out-of-cell settings.

The mental health practitioner shall document that the initial evaluation occurred on a CDC 128-B.

The details of the behavior plan shall also be documented on a CDC 128-B. The CDC 128-B shall not include information regarding specific mental health diagnoses, conditions, or other protected health information. Placement on MCS will not preclude an inmate from access to health care.

Upon removal from MCS, all documents related to the MCS, will be forwarded to the records office for inclusion in the inmate's central file.

Each institution shall designate cells in ASU/SHU as management cells. Other cells in ASU/SHU may also be used as management cells if the designated cells are unavailable. When placed on MCS, all inmate property and clothing will be removed from the cell, and documented on the CDC Form 1083, Inmate Property Inventory, with the exception of:

### **Male Institutions**

- One state issued mattress
- One blanket
- One T-shirt
- One pair of boxer shorts
- One toothbrush with tooth powder/toothpaste

- One bar of soap
- One towel
- Daily supply of toilet tissue
- Legal materials (priority legal user status only)
- Health care appliances

Note: Inmates identified as transgendered (Male to Female) in accordance with DOM Section 62080.14 shall retain one brassier while on MCS.

### **Female Institutions**

- One state issued mattress
- One blanket
- Three brassieres
- Three pairs of panties
- Night gown/smock
- One toothbrush with tooth powder/toothpaste
- One bar of soap
- Two towels
- Daily supply of toilet tissue
- Feminine hygiene products
- Legal materials (priority legal user status only)
- Health care appliances

Note: Inmates identified as transgendered (Female to Male) in accordance with DOM Section 62080.14 shall retain up to three pairs of boxer shorts while on MCS.

Inmates with priority legal user status will be allowed to maintain possession of their legal paperwork as long as their placement on MCS did not involve said material (e.g., covering cell window with legal papers).

Yard privileges shall continue for inmates placed on MCS. Yard privileges may be suspended for behavior not related to the behavior requiring placement on MCS. Yard privilege suspension may not exceed five days. Reason for yard suspension shall be documented on the CDC 128-B and recorded on the inmate's CDC 114-A.

If an inmate is on MCS during his/her regularly scheduled Institutional Classification Committee (ICC) review, the MCS retention or removal will be reviewed and documented on the CDC Form 128-G, Classification Chrono. Inmates on MCS beyond ten days must be seen at the next scheduled ICC for retention or removal review and the outcome will be documented on the CDC 128-G. The individualized mental health plan will be addressed by the mental health clinician present in the ICC reviews and documented on the CDC 128-G.

**[Sections 52080.22.5 through 52080.33.6 are unchanged]**

### **52080.34 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure that the content of this article is current.

**52080.35      References**

*Revised January 30, 2015*

PC §§ 2081, 2931, 2932, 2933, 3060, 5054, 5058, and 5077.

W&I § 3051.

GC § 11346.2d.

Wright v. Enomoto (1976) 462 F. Supp. 397.

Taylor v. Rushen (ND Cal) L-80-0139 SAW.

CCR (15) (3) §§ 3290 and 3310 - 3345.

*Coleman v. Brown*, United States District Court, E.D. Cal., No. CIV. S-90-520 LKK DAD PC,  
Order issued August 11, 2014.